

REMARKS

Claims 1-13 and 15-26 are pending in the present application. Claims 1-13 and 15-26 have been rejected. Reconsideration in view of the following arguments is kindly requested.

Claim Rejections – 35 U.S.C. § 103

Claims 1-7 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Honkasalo et al. (USP 5,995,496) in view of Barnett (USP 5,483,669). This rejection is respectfully traversed.

Applicants submit that the combination of Honkasalo and Barnett fail to teach all of the claim limitations of claim 1, which recites a method for determining a transmit power level at which to transmit a current block comprising at least: determining a transmit power attenuation for each current block of a subsequent group of blocks as a function of a minimum of a first attenuation factor and a second attenuation factor.

Applicants agree with the Examiner that Honkasalo fails to teach or disclose a first and second attenuation factor used to determine a transmit power attenuation level, as recited in claim 1. Applicants also submit that Honkasalo fails to disclose other claim limitations recited in claim 1. For Examiner, the Examiner alleges that the abstract, and columns 8-9 and 12 of Honkasalo disclose step (c), subtracting the transmit power attenuation level from a given transmit power level used for transmitting one or more blocks of a previous group to determine the transmit power level for that current block, as recited in claim 1. Applicants submit that Honkasalo discloses determining a transmission signal power level by calculating the difference between a target power level (t0) pursued by a base station and an actual quality level measured by the base station. The difference is represented by D1, which is positive when the measured quality level is higher than the target level (t0) and is negative when the quality level is lower than the target level (t0), thus implying that D1 may be represented by the expression (target value (t0) – measured quality level).

Applicants submit that this difference calculation between a target power level and actual power level in Hankasalo is not subtracting a transmit power attenuation level from a given transmit power level used for transmitting one or more blocks of a previous group. The transmission signal power level calculation disclosed in Hankasalo is based on the sum of previous transmission power levels and D1 (target value (t0) – measured quality level). See Column 8, lines 37-40 of Hankasalo. The target value (t0) is based on a quality level pursued by a given base station, and the measured quality level is the actual transmission signal quality measured by the base station. See Column 8, lines 25-30 of Hankasalo. Neither the target value (t0) nor the measured quality level disclosed in Hankasalo represent a transmit power attenuation level, as recited in claim 1.

In addition to the above, the Examiner relies on Barnett for a teaching of determining a transmit power attenuation level as a function of a minimum of a first attenuation factor and a second attenuation factor. Applicants submit that the Examiner has failed to provide evidence of motivation or suggestion to combine Hankasalo and Barnett.

Barnett discloses a mobile communication handoff system which determines the attenuation level of a mobile unit for a particular channel commanded by a base station controller. The mobile unit has a minimum attenuation level based on the design of the mobile telephone, and this information is entered into the base station controller when a mobile unit initiates or responds to a call. The mobile unit is limited to transmitting at a power level which is not higher than the minimum permissible attenuation level determined by the cellular boundaries when attempting to hand off on-going cellular communications. See col. 6, lines 15-27 of Barnett. Barnett further discloses selecting a dynamic threshold value in accordance with a value corresponding to a minimum attenuation level permitted by the neighboring cell and the minimum attenuation level of the mobile unit. See col. 10, lines 34-38 of Barnett.

The Examiner provides,

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a transmit attenuation level for each current block of a subsequent group of blocks as a function of a minimum of a first attenuation factor and a second attenuation factor because this would allow for dynamic transmit power control that can control transmission power levels of bursts of communication signals. (underlining for emphasis)

Applicants submit that the Examiner's reasoning for combining these two references, as stated above, contains no evidence of motivation or suggestion of desirability to combine Barnett and Hankasalo to reject claim 1. The deficiency lacking in Hankasalo, including determining a transmit attenuation power as a function of a minimum of at least two attenuation factors, must be supplemented by some other teaching wherein one of ordinary skill in the art would be motivated to provide the supplemental teaching by some motivation, teaching or suggestion of the desirability to make the combination, as indicated in *In re Dembiczak*, 50 USPQ2d 1646 (Fed. Cir. 1999) and *In re Kotzab*, 55 USPQ 1313 (Fed. Cir. 2000).

The Examiner has merely concluded that because Hankasalo and Barnett would allow for dynamic transmit power control that can control transmission power levels of communication signals, then the teachings of Barnett could be recognized in the inventions of Hankasalo. However, this is not evidence of motivation, teaching, or suggestion for one of ordinary skill in the art to combine the teachings of Barnett with those of Hankasalo. In order to make a proper combination of references, the Examiner must provide evidence as to why one of ordinary skill in the art would have been motivated to select and combine the referenced teachings. Relying on common knowledge or common sense of a person of ordinary skill in the art without any specific hint or suggestion of this in a particular reference is not a proper standard for reaching the conclusion of obviousness. See *In re Sang Lee*, 61 USPQ 2d 1430 (Fed. Cir. 2002).

Accordingly, Applicants submit that claim 1, and those claims dependent thereon, are allowable over the prior art. Withdrawal of the rejection to these claims is kindly requested.

Regarding claim 20, Applicants submit that claim 20 contains similar subject matter as recited in claim 1. Accordingly, for at least those reasons as stated above with regard to claim 1, Applicants submit that claim 20, and those claims dependent thereon, are allowable over the prior art. Withdrawal of the rejection to these claims is kindly requested.

Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Honkasalo in view of Barnett and further in view of Laakso. This rejection is respectfully traversed.

Applicants submit that the combination of Hankasalo, Barnett and Laakso fail to teach or disclose calculating a second attenuation factor indicating an estimated additional downlink attenuation to be applied to a first attenuation factor, as recited in claim 15. After a cursory review of the additional reference Laakso, Applicants submit that this additional reference fails to disclose the subject matter recited in claim 15 or render it obvious. Accordingly, Applicants submit that claim 15 and those claims dependent thereon are allowable over prior art. Withdrawal of this rejection is kindly requested.

Claims 8-13, 16-19 and 21-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Honkasalo in view of Barnett and Laakso and further in view of Anderson. This rejection is respectfully traversed. For at least the reasons stated above regarding independent claims 1, 15 and 20, Applicants submit that the rejection to dependent claims 8-13, 16-19 and 21-26 is rendered moot. Withdrawal of this rejection is kindly requested.

CONCLUSION

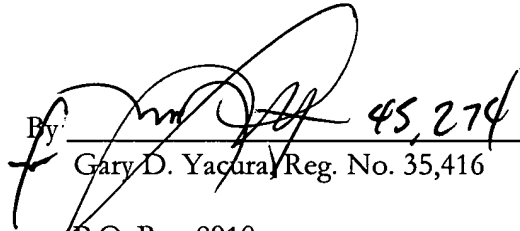
Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-13 and 15-26 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By:  45,274

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